



San Diego City Attorney MICHAEL J. AGUIRRE

MEDIA ADVISORY

FOR IMMEDIATE RELEASE: January 8, 2007

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ORAL ARGUMENT SCHEDULED FOR CITY ATTORNEY'S CHALLENGE TO COURT'S DECISION IN CITY PENSION CASE

DATE AND TIME: Thursday, January 11 at 3 p.m.

**LOCATION: San Diego Superior Court, 330 W. Broadway,
Dept #69, Downtown San Diego**

Superior Court Judge Jeffrey B. Barton has scheduled oral argument on the City Attorney's objections to the Judge's proposed statement of decision in the City's pension case. In his December 14, 2006 decision Barton declared that, due to subsequent legal settlement agreements, the majority of pension benefits granted to City employees in 1996 and 2002 cannot be reversed. However, Judge Barton did not rule on the legality of the benefits, which the City Attorney contends were tainted by prohibited financial interests on the part of public officials who voted on the agreements.

On December 27, 2006, City Attorney Michael Aguirre filed the City's formal objections to Superior Court Judge Jeffrey B. Barton's ruling. Under California Rules of Court section 232, objections can be raised if the Court's decision did not "resolve principal controverted issues" or if it did so "incorrectly or ambiguously."

The City Attorney cited three errors in the court's ruling:

- 1) The Court applied a technical contract analysis rather than focusing on the conduct of public officials who, in 1996 and 2002, allowed the City to underfund the pension system in exchange for increased pension benefits. The Court failed to determine if any public official had a prohibited financial interest.
- 2) The Court failed to apply the automatic disgorgement rule, which voids contracts made by public officials who have prohibited financial interests.
- 3) The Court misstated the City's position that the City cannot state a claim under the liability limit law. The City's claim is that City officials created pension debt without providing same year revenues to pay for that debt as required by San Diego City Charter § 99 and California Constitution Article 16, § 18.

The City's current unfunded pension debt amounts to \$1.5 billion, which equals \$6,000 for each household in the City of San Diego. When combined with the City's unfunded employee health benefit, the debt amounts to \$3 billion, which equals \$12,000 per City household.

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